

# BORROW OPTION

North Dakota Department of Transportation, Design Division  
SFN 10132 (Rev. 05-2005)



Project  
Control  
Number

--	--	--	--	--

Project	Parcel(s)
---------	-----------

For the sum of \$\_\_\_\_\_ and other valuable consideration, receipt whereof is hereby acknowledged,  
the undersigned \_\_\_\_\_

\_\_\_\_\_ of \_\_\_\_\_  
(MAILING ADDRESS)

for themselves, their heirs, executors and assigns, hereinafter referred to as "Grantor(s)," agree to sell and convey unto the state of North Dakota, for and on behalf of the North Dakota Department of Transportation, hereinafter referred to as NDDOT, all of the fill material suitable for highway purposes, located in and upon the following-described tract or parcel of real estate situated in \_\_\_\_\_ County, North Dakota, specifically:

Use of borrow option is subject to a Cultural Resource Survey and Soil Survey.

Grantor(s) covenant that they are well seised of the property described above, and have the right to grant this material option on behalf of themselves, their heirs, successors, and assigns, free of any encumbrance impairing or preventing the removal of such material.

The Grantor(s) further agree that NDDOT and its assignees shall have full and free right of entry upon and use of said land for the purpose of removing such material.

The Grantor(s) shall be compensated for the material removed at the rate of \$\_\_\_\_\_ per cubic yard. In addition, NDDOT or its assignee (Contractor), will, if any material is removed from the option site:

1. Make a minimum payment of \$\_\_\_\_\_ equivalent to \_\_\_\_\_ percent of the estimated \_\_\_\_\_ cubic yardage. After the Contractor has removed the minimum quantity estimated, the Contractor shall pay the Grantor(s) 80 percent of the minimum payment within 30 days after NDDOT has made payment to the Contractor. The balance of the royalty payment shall be paid to the Grantor(s) within 30 days after NDDOT makes final payment to the Contractor and the Contractor has obtained a pit release from the Grantor(s).
2. Pay cash rent on the disturbed acreage at the rate of \$\_\_\_\_\_ per acre. If the optioned area is still being utilized for borrow after May 15 of the following year, an additional year's cash rent will be paid.
3. Make an additional rehabilitation payment on the disturbed acreage in the sum of \$\_\_\_\_\_ per acre.
4. Make an additional payment of \$\_\_\_\_\_ per acre if the area excavated was seeded when the work commenced.

Additional conditions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Prior to excavation of material, the topsoil within the area is to be removed to its full depth, but not to exceed six inches. When the excavation work is completed the topsoil will be redistributed over the disturbed area. Adequate drainage will be provided as part of the reclamation of the disturbed property. The reclaimed area will be seeded to grass if so requested by the Grantor(s) prior to removal of borrow.

It is mutually agreed between the parties hereto that the state, through NDDOT, may assign the right to exercise this option to other entities or persons to take fill material for highway improvement from the land herein described, and that said assignee shall pay to the parties to whom the state itself should pay for such material taken, at the same rate as the state itself would pay if the material were taken by the state under this agreement. Assignee shall notify the Grantor(s) in writing that assignee is exercising NDDOT's option and promptly present a detailed excavation plan to the Grantor(s).

This option shall expire upon completion of the project, or at the end of five years, whichever occurs first.

NDDOT will not record this option.

The Grantors will be given written notification if this option is not approved by NDDOT.

Name and address of mortgagees: \_\_\_\_\_  
\_\_\_\_\_

EXECUTED the date last below signed:

Grantor(s):

\_\_\_\_\_  
NAME (TYPE OR PRINT)  
  
\_\_\_\_\_  
SIGNATURE  
  
\_\_\_\_\_  
DATE  
  
\_\_\_\_\_  
NAME (TYPE OR PRINT)  
  
\_\_\_\_\_  
SIGNATURE  
  
\_\_\_\_\_  
DATE

\_\_\_\_\_  
NAME (TYPE OR PRINT)  
  
\_\_\_\_\_  
SIGNATURE  
  
\_\_\_\_\_  
DATE  
  
\_\_\_\_\_  
NAME (TYPE OR PRINT)  
  
\_\_\_\_\_  
SIGNATURE  
  
\_\_\_\_\_  
DATE

NORTH DAKOTA  
DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
DESIGN ENGINEER (TYPE OR PRINT)  
  
\_\_\_\_\_  
SIGNATURE  
  
\_\_\_\_\_  
DATE

\_\_\_\_\_  
RIGHT OF WAY AGENT (TYPE OR PRINT)  
  
\_\_\_\_\_  
SIGNATURE  
  
\_\_\_\_\_  
DATE